

Before the
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

In the matter of

)

)

)

)

)

Docket No. MB 06-92

To: Office of the Secretary
Attn: Chief, Media Bureau

Comments on the
PETITION FOR DECLARATORY RULING

MEDIA BUREAU ACTION

Comment on petition for declaratory ruling regarding RFD
Communications, Inc. and its eligibility to be carried as a DBS Public
Interest Noncommercial programmer

Intermountain Communications, LLC

Daniel J. Rapkoch
Partner
P.O. Box 5162
Bozeman, MT 59717-5162
(406) 581-3385

May 18, 2006

Comments

Intermountain Communications, LLC offers the following comments concerning the petition for Declaratory Ruling regarding RFD Communications, Inc. (“RFD-TV”) eligibility to be carried as a DBS Public Interest Noncommercial programmer.

Intermountain Communications, LLC (“IMC”) is a for-profit entity that provides television broadcast services to clients, specifically satellite-based livestock auctions. IMC produces and distributes livestock auctions via satellite on Dish Network.

IMC is writing in support of the Farm Journal, Inc. petition of declaratory ruling by recommending the removal of the non-profit status of RFD-TV. RFD-TV is operating as a for-profit, commercial entity and should be treated accordingly by the FCC.

Live cattle and other livestock auctions provide an efficient, effective method for purchasing livestock and is a growing commercial segment of the agricultural business in the US. This capability provides a valuable service to the agricultural industry and is another element in which the American farmer has become a more efficient producer of food products.

Superior Livestock Auction programming is carried on RFD-TV, which is a channel that occupies a portion of the DBS set aside capacity as required by the 1992 Cable Act. IMC has customers that compete with Superior

Livestock Auction and utilize commercial programming channel capacity on DISH Network and pay commercial programming rates. It appears that Superior Livestock Auction is brokering RFD-TV channel capacity at commercial rates and selling commercial advertisements and is therefore ineligible for carriage on channels that DBS providers reserve for qualified nonprofit organizations or noncommercial educational entities.

Our clients have not participated in the use of a public asset for commercial, profitable gain. RFD-TV, because of its current non-profit status, provides Superior Livestock Auction with the ability to artificially lower their prices creating an unfair competitive advantage as compared to our clients who pay commercial programming rates.

Additionally, Superior Livestock Auction sells commercial advertising for Nuflor ® a cattle antibiotic and for John Deere, a farm equipment manufacturer. The Nuflor advertisement does not qualify as an underwriting sponsor because of the 'call to action' element of their advertisement.

This commercial programming, which occupies a significant portion of their broadcast schedule was not the intent of the "set-aside" capacity of the DBS systems. There is no way that a reasonable person could view this programming as non-commercial or educational.

RFD-TV has abused its non-profit status by carrying for-profit auctions provided exclusively by Superior Livestock Auction. IMC is asking the FCC to level the playing field for its clients and urges support of this action.

If the Commission has any further questions please contact Daniel J. Rapkoch at (406) 490-1895.